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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,323	06/09/2006	Takeo Yokawa	1422-0720PUS1	4937
2292 7590 01/14/2011 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER PESELEV, ELLI				
ART UNIT		PAPER NUMBER		
1623				
NOTIFICATION DATE		DELIVERY MODE		
01/14/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary**Application No.**

10/582,323

Applicant(s)

YOKAWA ET AL.

Examiner

Elli Peseev

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12, 14, 15, 17, 21, 22, 26, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12, 14, 15, 17, 21, 22, 26, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date 11/2/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No.(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The information disclosure statement filed November 2, 2010 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12, 14, 15, 17, 21, 22, 26, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bijlsma et al (WO 00/57727) in combination with De La Torre et al (Riviste Italiana D Nutrizione Parenterale Ed Enterale, Vol. 21, No. 3, pp. 105-111, Wichig Editore, Milano IT, January 1, 2003).

Bijlsma et al disclose nutritional compositions which contain slightly negatively charged non-digestible polysaccharides having mw of 8 kD to 40,000 kD and viscosity of less than 20 mPa.s (page 1, lines 28-31) and preferably less than 10 mPa.s (page 4, lines 31-33). Bijlsma et al also disclose that complete foods and food supplements containing said polysaccharides can be used to treat an inflammatory bowel disease (IBD) such as Crohn's disease (page 6, lines 4-6). In Example 1, on page 7, Bijlsma et al disclose one such polysaccharide being galactomannan derived from hydrolyzed guar gum and in Example 6, on page 8, Bijlsma et al disclose such a polysaccharide in combination with protein based on casein for the treatment of inflammatory bowel disease. Bijlsma et al further disclose said product in liquid form (page 8, lines 8-15). Bijlsma et al do not specifically disclose partially hydrolyzed guar gum in the absence of further chemical modification.

De La Torre et al disclose the use of galactomannan derived from partially hydrolyzed guar gum for the treatment of IBD. Based on the disclosures by Bijlsma et al and De La Torre et al, it would have been prima facie obvious to a person of ordinary skill in the art at the time of the claimed invention to use partially hydrolyzed guar gum disclosed by De La Torre in the method disclosed by Bijlsma et al because partially hydrolyzed guar gum in the absence of further chemical modification was known to be useful for treating IBD as disclosed by De La Torre, i.e. the results obtained by such substitution would have been expected.

Applicant's arguments filed November 2, 2010 have been fully considered but they are not persuasive.

Applicant contends that the test data in Test Examples 1-1 to 1-3 and Figs. 1-3 demonstrates superior results in that employed galactomannan not only shows histologically ameliorative action for IBD, but also has suppressive action on inflammation, and lowers the activity of MPO and TNF- α . Applicant also contends that the test data in Test Examples 2-1 to 2-4 demonstrates superior results with respect to the present invention. The test data has been considered but has not been found persuasive since the effectiveness of guar for the treatment of IBD would have been expected from the combination of teachings by Bijlsma et al and De La Torre et al. The additional effect of lowering activity of MPO and TNF- α with administration of guar gum would have been inherent in the methods disclosed by Bijlsma et al and De La Torre et al.

Applicant contends that De La Torre disclose galactomannan having mw of 220,000 daltons. This argument has not been found persuasive since said mw refers to galactomannan before hydrolysis. Further, applicant has not pointed out how a hydrolysis by β -mannase results in a galactomannan having different properties and/or activity.

Therefore, the claimed methods are still dimmed prima facie obvious over the cited prior art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elli Peselev whose telephone number is (571) 272-0659. The examiner can normally be reached on 8.00-4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elli Peselev
/Elli Peselev/
Primary Examiner, Art Unit 1623